

HOUSE BILL NO. 469

INTRODUCED BY J. SESSO

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE COLLECTION OF PAYMENTS IN THE MEDICAID PROGRAM PREVIOUSLY MADE BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO HEALTH CARE PROVIDERS; AUTHORIZING THE DEPARTMENT TO COLLECT PREVIOUS PAYMENTS MADE TO A PROVIDER BECAUSE OF PROVIDER FRAUD OR ABUSE; PROHIBITING THE DEPARTMENT FROM COLLECTING PAYMENTS MADE AS A RESULT OF DEPARTMENTAL OR PROVIDER ERROR; PROVIDING THAT INTEREST ACCRUES ON A PAYMENT MADE BECAUSE OF FRAUD OR ABUSE FROM THE DATE ON WHICH THE PAYMENT WAS MADE BY THE DEPARTMENT; PROHIBITING THE DEPARTMENT FROM SUSPENDING PAYMENTS TO A MEDICAID PROVIDER AT CERTAIN TIMES; PROHIBITING THE DEPARTMENT FROM COLLECTING PAYMENTS PRIOR TO A HEARING REQUESTED BY THE PROVIDER; AND AMENDING SECTION 53-6-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-6-111, MCA, is amended to read:

"53-6-111. Department charged with administration and supervision of medical assistance program -- ~~overpayment payment~~ recovery -- sanctions for fraudulent and abusive activities -- when department may not recover -- adoption of rules. (1) The department of public health and human services may administer and supervise a vendor payment program of medical assistance under the powers, duties, and functions provided in Title 53, chapter 2, and this chapter and that is in compliance with Title XIX of the Social Security Act.

(2) ~~(a)~~ The department ~~is entitled to~~ may collect from a provider, and a provider is liable to the department for:

~~(i), the amount of a payment under this part to which the provider was not entitled, regardless of whether the incorrect payment was the result of department or provider error or other cause; and~~

~~(ii) the portion of any interim rate payment that exceeds the rate determined retrospectively by the department for the rate period because of provider fraud or abuse. The department may not collect from a provider a payment made by the department because of provider error or an error made by departmental~~

1 personnel or computer systems.

2 ~~(b)(3)~~ In addition to the ~~amount of overpayment~~ payment recoverable under subsection (2)~~(a)~~, the
3 department is entitled to interest on the amount of the ~~overpayment~~ payment at the rate specified in 31-1-106
4 from ~~the date 30 days after the date of mailing of notice of the overpayment by the department to the provider,~~
5 ~~except that interest accrues from~~ the date of the incorrect payment when the payment was obtained by fraud
6 or abuse.

7 ~~(e)(4)~~ The department may collect any amount described in subsection (2)~~(a)~~ by:

8 ~~(i)(a)~~ withholding current payments to offset the amount due;

9 ~~(ii)(b)~~ applying methods and using a schedule mutually agreeable to the department and the provider;

10 or

11 ~~(iii)(c)~~ any other legal means.

12 ~~(d)(5)~~ The department may not suspend payments to a provider for disputed items pending resolution
13 of a dispute.

14 ~~(e)(6)~~ The fact that a provider may have ceased providing services or items under the medical
15 assistance program, may no longer be in business, or may no longer operate a facility, practice, or business
16 does not excuse ~~repayment~~ payment under ~~this~~ subsection (2).

17 ~~(3)(7)~~ The department shall adopt rules establishing a system of sanctions applicable to providers who
18 engage in fraud and abuse. Subject to the definitions in 53-6-155, the department rules must include but are not
19 limited to specifications regarding the activities and conduct that constitute fraud and abuse.

20 ~~(4)(8)~~ Subject to subsections ~~(5)~~ (9) and ~~(6)~~ (10), the sanctions imposed under rules adopted by the
21 department under subsection ~~(3)~~ (7) may include but are not limited to:

22 (a) required courses of education in the rules governing the medicaid program;

23 (b) suspension of participation in the program for a specified period of time;

24 (c) permanent termination of participation in the medical assistance program; and

25 (d) imposition of civil monetary penalties imposed under rules that specify the amount of penalties
26 applicable to a specific activity, act, or omission involving intentional or knowing violation of specified standards.

27 ~~(5)(9)~~ In all cases in which the department may recover medicaid payments or impose a sanction, a
28 provider is entitled to a hearing under the provisions of Title 2, chapter 4, part 6. ~~This section does not require~~
29 ~~that the~~ A previous payment may not be recovered by the department prior to a hearing under Title 2, chapter
30 4, part 6, be granted prior to recovery of overpayment if the provider requests a hearing in accordance with those

1 provisions.

2 ~~(6)~~(10) The remedies provided by this section are separate and cumulative to any other administrative,
3 civil, or criminal remedies available under state or federal law, regulation, rule, or policy."

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5 NEW SECTION. **Section 2. Saving clause.** [This act] does not affect rights and duties that matured,

6 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

7 - END -